

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2004-003- E ORDER NO. 2004- 258
MAY 14, 2004

IN RE: Duke Power – Annual Review of Base Rates for Fuel Costs.) ORDER APPROVING) MOTION OF DUKE) POWER FOR) CONFIDENTIAL) TREATMENT OF) INFORMATION FILED) AS RESPONSES TO) DISCOVERY REQUESTS) OF THE CONSUMER) ADVOCATE
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This Order is issued to approve the request of Duke Power (“Duke”) that materials provided to the South Carolina Consumer Advocate (the “CA”) and the Commission in response to the CA’s discovery requests in the above captioned matter contain information which is proprietary and commercially sensitive to Duke.

A review of the materials in question establishes that they do provide detailed information concerning Duke’s business and practices which are sensitive. We therefore find that there is good cause to grant the Motion.

Further, S.C. Code Ann. Section 30-4-40(a)(1) states that matters to be exempt from the South Carolina Freedom of Information Act (“FOIA”) includes: “(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes....Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing

studies, and evaluations and other materials which contain references to potential customers, competitive information or evaluation.” We find that the information which Duke seeks protection of as proprietary falls within this definition materials exempted from FOIA.

The Commission therefore grants the Motion of Duke and provides that the aforementioned information provided by Duke to the CA and the Commission in response to the CA’s discovery requests shall be considered proprietary and confidential and may not be used, published, or released by the Commission, its staff or any of the parties to this matter.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Mignon L. Clyburn, Chairman

ATTEST:

/s/
Bruce F. Duke, Executive Director

(SEAL)